

Application No.: 10/612,631
Amdt dated: May 27, 2009
Reply to Office action of February 27, 2009

REMARKS/ARGUMENTS

This Amendment is filed in response to the Final Office Action that was mailed on February 27, 2009. Claims 26-31, 33-40, and 42-47 were considered by the Examiner. In this paper, Claim 26 has been amended, new Claims 48 and 49 have been added, and no claims have been canceled. Accordingly, Claims 26-31, 33-40, and 42-49 are presented for consideration. No new matter has been added with these amendments.

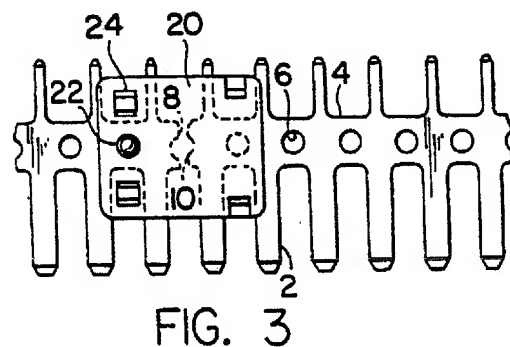
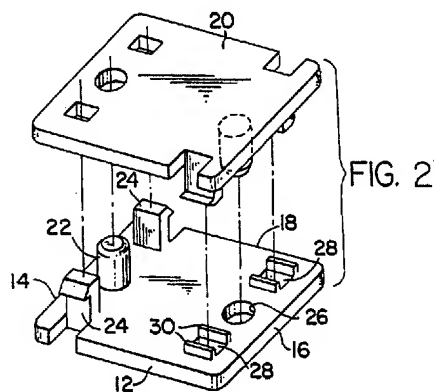
Summary of the Office Action

In the Office Action, Claims 26-31, 33-40, and 42-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Daley (U.S. Patent No. 5,112,255) in view of Toso et al. (U.S. Patent No. 5,282,832) and Chen (U.S. Patent No. 5,160,339). For at least the reasons discussed below, Applicant respectfully traverses these rejections.

The Asserted Combination of References Fails to Disclose the Claimed Subject Matter.

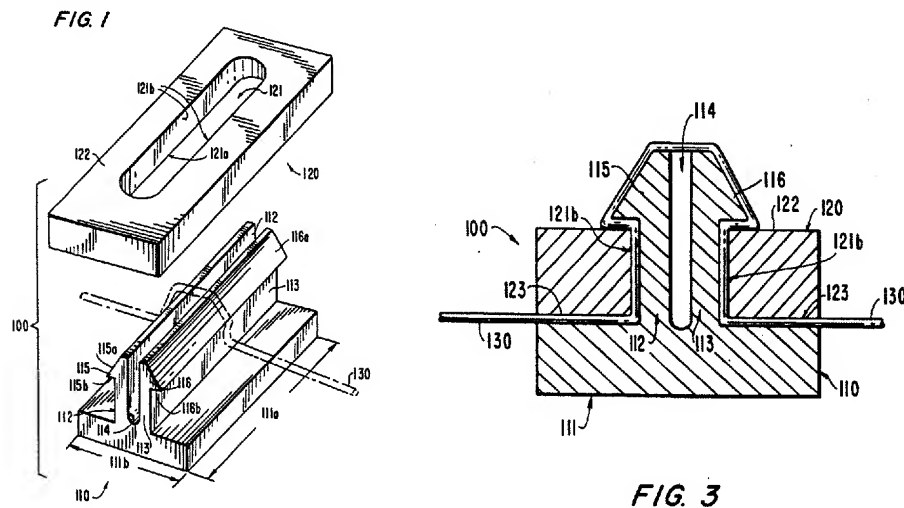
Daley relates to a joiner for joining electrical terminal strip segments. (Daley, col. 1, lines 6-7). The joiner comprises two identical joiner halves which snap together around the ends of the terminal strip segments. (Daley, col. 4, lines 16-19). As illustrated in Figure 2, which is reproduced below, a joiner half has a body 12 with a cylindrical post 22 and two locking fingers 24 extending therefrom. (Daley, col. 4, lines 34-43). The post 22 is "sized to pass through the pilot hole 6 of the terminal strip for

which the joiner is designed and is long enough to pass through both the pilot hole 6 and a post hole 26 of another joiner half." (Daley, col. 4, lines 43-46). Once assembled around the terminal strip, the joiner can be fed smoothly from the reel and into the feed track of an automatic terminal insertion machine without jamming or tangling because the terminal strip is maintained in a substantially planar configuration with no projections which can snag or tangle with the machine. (Daley, col. 5, lines 8-16). Figure 3, also reproduced below, illustrates terminal strip segments joined by the joiner described in Daley. (Daley, col. 4, lines 4-5).



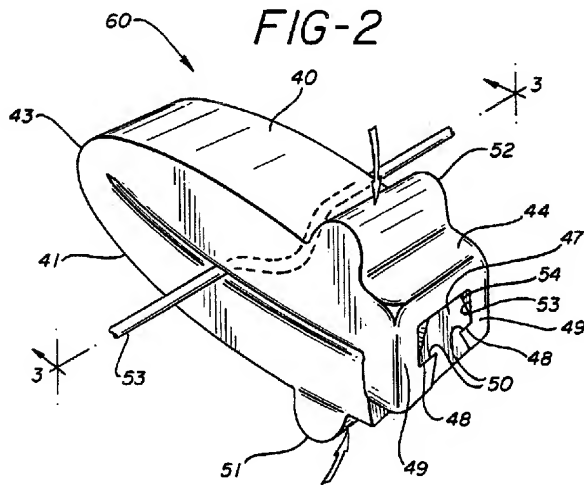
Toso relates to a suture clip including a base having two legs projecting perpendicularly therefrom. (Toso, col. 2, lines 62-67). The legs each include locking barbs with a camming surface and abutment surfaces. (Toso, col. 3, lines 6-9). These locking barbs facilitate snap fit engagement with a retainer member having an aperture formed therein. (Toso, col. 3, lines 9-15). Figures 1 and 3, reproduced below, illustrate the Toso suture clip with a suture in an exploded view in an open configuration, and a

sectional view in a closed configuration. When the Toso suture clip is used, the suture is placed into serpentine path about the various angular bends of the surfaces of the locking barbs, developing tension at "each of the multiple bends that the suture has been subjected to." (Toso, col. 2, lines 37-40, Figure 3).



Chen relates to a surgical clip having first and second leg members 40, 41, joined at their proximal ends by a hinge section 43. (Chen, col. 2, lines 52-56). The first leg member 40 has a clamping inner surface with a convex radius of curvature, and the second leg member 41 has a clamping inner surface with a concave radius of curvature smaller than and complementary to the convex radius of curvature to *minimize* the gap between the clamping surfaces when the clip is in the clamped position, resulting in relatively high clamping or crimping forces. (Chen, col. 3, lines 6-18). Accordingly, the clamping force of this minimal gap, rather than a convoluted

pathway, retains the suture in the Chen device. Figure 2, reproduced below, illustrates the Chen device crimping a suture.



The recited subject matter includes recitations not present in either Daley, Toso, or Chen. For example, Claim 26 relates to a securing mechanism for securing a pair of free ends of a suture comprising, among other limitations, a first interlocking member and a second interlocking member operably connecting with the first interlocking member wherein "at least a portion of the suture is retained in a convoluted pathway having radii configured to lightly compress the suture." In contrast, as discussed above, Daley fails to disclose a convoluted pathway at all, rather Daley describes maintaining a terminal strip segment in a *planar* configuration. Toso likewise fails to disclose or suggest the recited securing mechanism, instead Toso describes creating tension in a suture by routing it over a number of *sharp bends*. Indeed, the suture does not pass over any radiused edges on the Toso device. (See Toso, Figure 2). Chen likewise fails

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to disclose radii that "lightly compress" a suture in a convoluted pathway, as recited in Claim 26, rather, Chen relies on "complementary" radii to highly compress or crimp the sutures between clamping surfaces.

Accordingly, for at least the reasons discussed above, the applied combination of references fails to disclose all of the limitations of Claim 26. Claims 27, 30-31, and 33-38 depend from Claim 26 and recite additional novel and nonobvious limitations thereon. Thus, Claims 27, 30-31, and 33-38 are distinguishable over the applied art for at least the reasons discussed above with respect to Claim 26.

Claim 28 relates to a securing mechanism for securing a pair of free ends of the suture comprising, among other limitations, a first interlocking member, and a second interlocking member. When elements of the first interlocking member and the second interlocking member are engaged, at least a portion of the suture ends are positioned through a convoluted pathway "having radii configured to lightly compress the suture." As discussed above with respect to Claim 26, neither Daley nor Toso nor Chen disclose or suggest a device with a convoluted pathway as recited. Accordingly, the applied combination of references fails to disclose all of the limitations of Claim 28. Claims 29, 39-40, and 42-47 depend from Claim 28 and recite additional novel and nonobvious limitations thereon. Accordingly, Claims 29, 39-40, and 42-47 are distinguishable over the applied art for at least the reasons discussed above with respect Claim 28.

Daley Teaches Away from the Asserted Combination of References.

One of skill in the art would be dissuaded by Daley from modifying the joiner therein, as suggested in the Office Action, to include certain features of Toso. The Office Action indicates that it would have been obvious to one of ordinary skill in the art to modify Daley to create a convoluted pathway, as taught by Toso. However, such modification is plainly contradicted by the teachings of Daley, which repeatedly emphasize the importance of having a planar configuration such that the joiner can be fed smoothly in a terminal insertion machine. (Daley, col. 2, lines 16-36, 63-68, col. 3, lines 26-30, col. 5, lines 8-16, col. 6, lines 65-68, col. 7, lines 1-6, 13-17).

Furthermore, Daley relates to a joiner for terminal strip segments for use in electrical connectors such that the connected segments may be fed through an automatic terminal insertion machine. Thus, Daley is not analogous art to suture clips for use in surgical procedures, as are described in Toso and Chen.

Accordingly, one of skill in the art seeking to improve upon a securing mechanism for securing a pair of free ends of the suture would not be likely to look to Daley. Furthermore, even assuming a skilled artisan looked to Daley, she would be dissuaded by the teachings of Daley from making the asserted modifications. Thus, the claimed subject matter is distinguishable over the applied combination of references at least because the references teach away from their combination.

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The Asserted Combination of Chen with Daley and Toso would Create an Inoperable Device.

The combination of Toso with Chen is likewise contraindicated by the references themselves. As discussed above, Toso relies on tension developing at angular bends in a suture pathway to retain a suture therebetween. Chen relies on high clamping forces generated between clamping surfaces having nonequal, complementary radii to retain a suture. Accordingly, rounding the angular bends of the barbs of the Toso device to include radiused surfaces as described in Chen would destroy the resulting device's ability to retain a clip, as the Toso device does not include opposing clamping surfaces which can include complementary radii.

New Claims 48 and 49

Claims 48 and 49 have been added herein and each depend from one of Claims 26 and 28. Accordingly, these new claims are distinguishable over the art of record for at least the reasons discussed above with respect to Claims 26 and 28. These claims are supported in the application as filed, therefore no new matter has been added with the addition of these claims.

Conclusion

For at least the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowability is most earnestly solicited.

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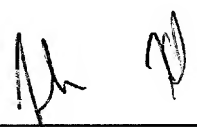
Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, John F. Heal, at (949) 713-8283 to resolve such issues promptly.

Sincerely

APPLIED MEDICAL RESOURCES

BY



John F. Heal
Reg. No. 53,008
Tel: (949) 713-8283